



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Minneapolis Area Office

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Charge Number: 444-2016-01249

T K Bruce
101 3rd Street
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Hermosa, SD 57744

Charging Party

vs.

State of South Dakota
500 East Capitol Ave., Capital Building
Pierre, SD 57501

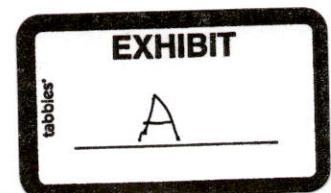
Respondent

DETERMINATION

Under the authority vested in me by the Commission's Procedural Regulations, I issue the following determination on the merits of this charge under Title VII of the Civil Rights Act of 1964, as amended (Title VII).

The Respondent is an employer within the meaning of Title VII and all requirements for coverage have been met. The Charging Party, a transgender male, alleged that he was discriminated against based on sex (transgender status/gender identity) in violation of Title VII when he was denied medically necessary care that would be covered by his employer-provided health benefit plan if not for his transgender status.

I conclude that there is reasonable cause to believe that the Respondent discriminated against the Charging Party on the basis of sex (transgender status/gender identity) by denying him medical benefit coverage for treatment due to his sex (transgender status/gender identity). Respondent provides health care coverage through The South Dakota State Employee Health Plan which is administered by the Commissioner of the Bureau of Human Resources of the State of South Dakota. Evidence obtained during the course of the investigation establishes reasonable cause to believe that The South Dakota State Employee Health Plan at the time of Charging Party's charge filing and continuing through the present by its terms categorically excludes coverage of any "service or drugs related to gender transformation," denying Charging Party medically necessary care that would have been covered if not for his transgender status. As such, Respondent's policy discriminated against the Charging Party based on sex (transgender



status/gender identity), as well as against transgendered individuals as a class, in violation of Title VII.

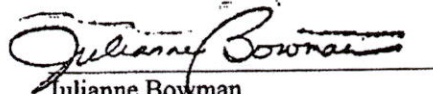
This determination is final. When the Commission finds that violations have occurred, it attempts to eliminate unlawful practices by informal methods of conciliation. Therefore, I invite the parties to join with the Commission in reaching a just resolution to this matter. Disclosure of information obtained by the Commission during the conciliation process will be made only in accordance with the Commission's Procedural Regulations (29 CFR Part 1601.26).

If the Respondent wishes to accept this invitation to participate in conciliation efforts, it may do so at this time by proposing terms for a conciliation agreement; that proposal should be provided to the Commission representative within 14 days of the date of this determination. The remedies may include, as appropriate, an agreement by the Respondent not to engage in unlawful employment practices, placement of identified victims in positions they would have held but for discriminatory actions, back pay, restoration of lost benefits, injunctive relief, compensatory and/or punitive damages, and notice to employees of the violation and the resolution of the claim.

Should the Respondent have further questions regarding the conciliation process or the conciliation terms it would like to propose, we encourage it to contact the assigned Commission representative, Denae Schuldt, at 612-334-4007 or at denae.schuldt@eeoc.gov. Should there be no response from the Respondent in fourteen (14) days, we may conclude that further conciliation efforts would be futile or nonproductive.

On behalf of the Commission,

6/21/17
Date


Julianne Bowman
District Director

cc: Respondent's Representative:
Jennifer Suich Frank
Lynn, Jackson, Schultz & Lebrun, P.C.
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Charging Party's Representative:
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Legal Director
American Civil Liberties Union of
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